



U.S. Department
of Transportation

**Federal Railroad
Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

SEP 16 2010

Ms. Ruth Millkman
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Public Safety Designation and Assignment 218–219 MHz Licenses to Publicly Owned Railroads for Positive Train Control System Operations (Docket FCC-AU-10-107)

Dear Ms. Milkman:

The Federal Railroad Administration (FRA) strongly endorses the Metropolitan Transportation Authority's and the American Public Transportation Association's requests for the Federal Communications Commission (FCC) to set aside spectrum, currently scheduled for inclusion in Auction 89, in the interests of public safety. As these parties noted, the Rail Safety Improvement Act of 2008 (RSIA) mandated that all passenger and commuter railroads, as well as large (Class I) freight railroads and others, install a safety system known as Positive Train Control (PTC). PTC is an array of technologies designed to precisely determine the speed and location of trains, warn train operators of potential problems, and take action if operators do not respond to these warnings. PTC will, in fact, automatically slow a train, or even stop it, to prevent train-to-train collisions, enforce civil and temporary speed limits, protect roadway workers, and prevent trains from running through improperly aligned switches. The obvious goal of this congressional mandate is to improve public safety.

Upon passing RSIA, Congress also ordered that all PTC systems be interoperable, regardless of the railroad on which or by which they are installed. (See 49 U.S.C. § 20157). PTC systems operate, in part, via wireless communications. Thus, in order to carry out this congressional mandate, the freight, passenger, and commuter railroads are required to share common radio frequencies. The large freight railroads already have settled on the use of spectrum in the 220–222 MHz frequency range, and have purchased the spectrum necessary for their own operations and those of the commuter and passenger railroads that operate on their tracks. The large freight railroads, however, have not acquired the necessary spectrum for those relatively few passenger and commuter railroads that run on their own tracks, such as the Long Island Rail Road and Amtrak.

As a consequence, there is a small number of public passenger and commuter railroads that will also require radio spectrum in the 220–222 MHz range in order to implement PTC.

Public passenger and commuter railroads are handicapped, however, in obtaining the necessary spectrum. Unlike the private sector freight railroads, the public passenger and commuter service providers are bound by similar procurement rules as the Federal Government. Satisfying these rules adds to the length of time it would take to procure the required spectrum to implement interoperable train control.

Additionally, since public commuter and passenger railroads are specifically operated to provide a public service, as opposed to produce a private gain, they rely heavily on public funding to meet operating and capital requirements. Given the competition for the limited available spectrum and the budget shortfalls being experienced by their sponsoring State and local governments, the financial ability of such railroads to obtain the necessary spectrum to meet the statutory deadline is questionable at best.

The FCC's approval of this request would guarantee the availability of the spectrum critical for the commuter and public passenger railroads' PTC operations, and enhance public safety. The assignment of the requested spectrum will not only reduce the implementation costs of the unfunded Federal mandate for completion of PTC systems, but also, as explained below, do so in a manner that would have only a minimal adverse impact on the proceeds from Auction 89.

The FRA also is appreciative of the fact that spectrum is a very valuable commodity, and in order to ensure that the best use possible is made of this limited resource, FRA would additionally propose that any of the spectrum bandwidth granted in the 220-222 MHz frequencies designated for PTC public safety not in use by public commuter or passenger railroads to support PTC operations after December 31, 2020, be made available for other uses. The 10-year licensing is consistent with other licenses and build-out durations granted by the FCC, and would allow for any possible delays in completion of the required PTC build out by passenger and commuter railroads.

My staff is available to address any questions that you may have regarding the regulatory requirements related to PTC systems as well as their design, implementation, and operation. Please feel free to contact me or any of the following persons at FRA: Associate Administrator for Railroad Safety/Chief Safety Officer, Ms. Jo Strang (telephone: (202) 493-6300, email: Jo.Strang@dot.gov); Deputy Associate Administrator for Regulatory and Legislative Operations, Mr. Robert Lauby (phone: (202) 493-6302, email: Robert.Lauby@dot.gov); or Senior Electronics Engineer, Dr. Mark Hartong (telephone: (202) 493-1332, email: Mark.Hartong@dot.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph C. Szabo". The signature is fluid and cursive, with the first name "Joseph" and last name "Szabo" clearly distinguishable.

Joseph C. Szabo
Administrator